IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO.936 OF 2005

M/s.Shraddha Enterprises ..Petitioner.

Vs.

Smt.Jyoti w/o Haresh Bhavsar ..Respondent.

....

Mr. Anil Singh with Mr.D.R.Shah for the Petitioner.

Mr.A.M.Saraogi for the Respondent.

...

CORAM : DR.D.Y.CHANDRACHUD, J.

29th August, 2005.

P.C. :

By the impugned order the Learned Trial Judge had granted ad interim relief directing the maintenance of status quo until the next date of hearing. That part of the order has not been challenged and the learned counsel appearing on behalf of the Petitioner states that the challenge in these proceedings is confined to the leave which has been granted under Order 2 Rule 2 of the Code of Civil Procedure 1908. In paragraph 15 of the

plaint it has been averred that the proceedings were being instituted in view of the grave urgency of the matter and the Petitioner accordingly sought leave under Order 2 Rule 2, the leave in the present case being to seek appropriate reliefs in separate proceedings for challenging the alleged document under which the Respondent is stated to have relinquished her tenancy. Counsel appearing for the Respondent states that the suit for challenging the alleged deed of relinquishment is ready and will be filed in any event within a period of one week from today. A reading of the order of the Learned Trial Judge dated 6th January, 2005 would show that there was no objection on the part of the Petitioner to the grant of leave under Order 2 Rule 2. If there was such an objection, the Learned Trial Judge would have dealt with the objection. In the grounds to the Petition also it is not stated that the grant of leave was objected to and that the objection was not dealt with. In the facts and circumstances of the case, I am of the view that the grant of leave under Order 2 rule 2 lies in the considered exercise of the discretion of the Learned Trial Judge which is not shown to have been exercised with any element of perversity.

There is no merit in the Petition which is accordingly rejected.